

AMENDMENTS TO DRAWING FIGURES

The attached sheet of drawing includes changes to Fig. 1. This sheet replaces the original sheet includes Fig. 1. Fig. 1 is amended to include the legend "prior art."

Attachment: Replacement Sheet

REMARKS/ARGUMENTS

In response to the Office Action mailed November 15, 2006, Applicants amend claims 1, 6, 8, 11, 16 and 26 and cancel claims 19, 20 and 22-25. As a result, reconsideration of the application is respectfully requested.

I. Specification Objection

Examiner objects to the specification as failing to provide a proper antecedent basis for the claimed subject matter. In particular, Examiner contends that the specification does not support “a computer readable medium comprising: executable program instruction” as claimed in claims 8, 9, 20 and 22 (claims 20 and 22 are canceled). In response, Applicants respectfully disagree with Examiner’s assertion. Applicants direct Examiner’s attention to DTV receiver 1 and 2 (elements 216 and 218) in Figure 9 of the Specification. These two elements contain a storage area 216a and 218a, respectively. A person of ordinary skilled in the art would understand that a DTV receiver with a built-in a storage area (e.g. a Tivo) contains computer executable instructions. Because a DTV receiver with a built-in storage area (Fig. 9, Specification) is capable of executing computer programming code to save a broadcast program, the specification thus supports the amended independent claim 8, as well as claims 9, 20 and 22 (claims 20 and 22 are canceled). Consequently, Applicants respectfully request reconsideration and withdrawal of the objection to these claims.

II. Drawing Objection

Examiner objects to the drawings of Figure 1 because only that which is old is illustrated. In response, Applicants attach a replacement sheet that contains a legend “prior art” to comply with Examiner’s request. Consequently, Applicants respectfully request reconsideration and withdrawal of the objection to Figure 1.

III. Claims Objection

Examiner objects to claims 1-7. In response to this objection, Applicants amend the phrase in claim 1 from “the receiving” to “the receiving information” in accordance with

Examiner's suggestion. As a result, Applicants respectfully request reconsideration and withdrawal of the objections to claims 1-7.

IV. Claims Rejected Under 35 U.S.C. §112

Examiner rejects claims 16, 17, 19, 20 and 22-25 (claims 19, 20 and 22-25 are canceled) under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In response, Applicants amend claim 16 from “unconsumed multimedia content” to “existing multimedia content” to comply with the written description requirement. This amendment is supported by paragraph [0044] of the Specification. Because claim 17 depends from claim 16, this amendment also corrects the defects of claim 17. Accordingly, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §112 rejections of claims 16 and 17.

V. Claims Rejected Under 35 U.S.C. §101

Examiner rejects claims 8, 9, 20 and 22 (claims 20 and 22 are canceled) under 35 U.S.C. § 101 because the claimed invention is allegedly directed to a non-statutory subject matter. In response, Applicants amend claim 8 to recite “encoded with computer executable instructions being executed by a computer for performing operations” to conform with Examiner's suggestion. Accordingly, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §101 rejections of claims 8 and 9.

VI. Claims Rejected Under 35 U.S.C. §102(e)

Examiner rejects claims 1-7, 11-13, 15-17, 19, 23-28 under 35 U.S.C. § 102(e) as being anticipated by U.S. Publication No. 2002/0056118 issued to Hunter et al, (hereinafter “Hunter”). To anticipate a claim, Examiner must show that a single reference teaches each of the elements of that claim.

Hunter teaches a video and music distribution system from a content provider that “blanket transmits video/audio contents such as movies” to a consumer's recording, storage and playback system (e.g. Tivo) through a data transmission provider (Hunter, abstract and [0012]). Examiner further states that Hunter teaches “the predetermined criteria further includes

consideration of whether the multimedia content has been deleted or tagged for deletion,” as recited originally in claim 6 but now incorporated into claim 1. However, the sections highlighted by Examiner in Hunter do not teach this element because the viewed-content information taught in Figure 10 and paragraph [0103] of Hunter is for billing purposes only (Hunter, [0103]) – i.e. it detects and makes a recording whenever a consumer views a program and sends the information to the content provider for billing purposes (e.g. pay-per-view). Therefore, this viewed-content information, as disclosed in Hunter, fails to teach “the predetermined criteria further includes consideration of whether the multimedia content has been deleted or tagged for deletion,” as recited in claim 1.

In regard to independent claims 11, 16 and 26, these claims have all been amended to include elements similar to “the predetermined criteria further includes consideration of whether the multimedia content has been deleted or tagged for deletion,” as recited in claims 1. For at least the reasons stated above in regard to claim 1, Hunter does not teach every element of these claims. Consequently, Applicants respectfully request reconsideration and withdrawal of the § 102 (e) rejection of these independent claims.

Regarding claims 2-7, 12, 13, 15-17, 19, 27 and 28, these claims depend from base claims 1, 8, 11 and 26, respectively, and thus incorporate all the limitations thereof. For at least the reasons stated above in regard to these base claims, Hunter does not teach or suggest each and every element of these dependent claims. Consequently, Applicants respectfully request reconsideration and withdrawal of the § 103 (a) rejection of these dependent claims.

VII. Claims Rejected Under 35 U.S.C. §103(a)

Examiner rejects claims 8, 9, 14, 20, 22 and 29 (claims 20 and 22 are canceled) under 35 U.S.C. § 103(a) as being unpatentable over Hunter. To establish a *prima facie* case of obviousness the prior art reference (or references when combined) must teach or suggest all the claim limitations (See MPEP § 2143).

Regarding claims 9, 14 and 29, these claims depend from base claims 8, 11 and 26, respectively, and thus incorporate all the limitations thereof. For at least the reasons stated above, Hunter does not teach or suggest each and every element of these dependent claims.

Consequently, Applicants respectfully request reconsideration and withdrawal of the § 103 (a) rejection of these dependent claims.

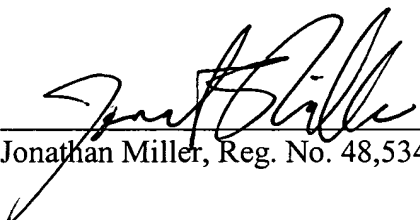
CONCLUSION

In view of the foregoing, Applicants believe that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

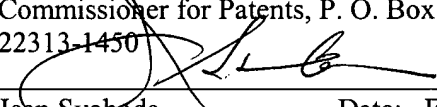
Dated: February 7, 2007


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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450


Jean Svoboda

Date: February 8, 2007